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ORIGINAL

July 26, 1999

Magalie Roman Salas
Secretary, Room TW-A325
Federal Communications Commission
The Portals, 445 Twelfth Street, SW
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: In the Matter of Truth-in-Billing and Billing Format, CC Docket No. 98-170

Dear Ms. Salas:

Enclosed herewith for filing are the original and four (4) copies of MCI WorldCom's Petition for Reconsideration and Clarification regarding the above-captioned matter.

Please acknowledge receipt by affixing an appropriate notation on the copy of the MCI WorldCom Petition for Reconsideration and Clarification furnished for such purpose and remit same to the bearer.

Sincerely yours,


Don Sussman

Enclosure
DHS

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of:

Truth-in-Billing
and
Billing Format

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CC Docket No. 98-170

MCI WORLDCOM, INC.
PETITION FOR RECONSIDERATION AND CLARIFICATION

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July 26, 1999

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Summary

In the Truth-in-Billing Order, the Commission adopted rules and requirements to ensure that carriers' charges, practices, classifications and regulations for and in connection with interstate services are just and reasonable, pursuant to Section 201(b) of the Communications Act, and noted that its requirements would help monitor the identity of their service provider, and thereby assist in detecting unauthorized conversions quickly. MCI WorldCom supports these goals. However, unlike the Commission, MCI WorldCom believes competition, not increased regulation, is the best means of advancing these consumer interests. If the Commission nevertheless believes that consumers require additional protection, then federal guidelines -- that are designed to address a specific problem, that are mindful of carriers' ability to implement such guidelines, and that do not impose costs that outweigh the public benefit -- should be adopted. It should be clear, however, that the guidelines are guidelines, not rules of proscriptive or prescriptive effect.

In the Truth-in-Billing Order, the Commission requires carriers to make clear when non-payment for service would result in the termination of the consumer's basic local service, where carriers include in a single bill both deniable and nondeniable charges. MCI WorldCom requests that the Commission reconsider and eliminate this requirement because it does not advance the Commission's stated objective, will impose enormous new costs on the industry, will seriously harm the ability of some carriers to recover all charges due to them, and extends beyond the Commission's jurisdiction. Additionally, MCI WorldCom requests that the Commission clarify that, under its truth-in-billing guidelines, (1) carriers are not liable for certain billing arrangements that are not under their de facto control; (2) carrier billing system development

costs stemming from implementation of truth-in-billing guidelines are to be borne by all carriers proportionally; (3) the Commission's guideline requiring clear and conspicuous identification of service providers not appearing on a previous bill does not require dial around, casual, or operator service providers to be identified as a new service provider on the monthly invoice; (4) carriers may provide customers toll-free numbers, or when such means are agreed to by customers, other no-cost means of accessing a carrier's customer service; and (5) carriers are not required to dedicate customer service numbers, web sites, or email addresses for the sole purpose of line item inquiries.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of:

**Truth-in-Billing
and
Billing Format**

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CC Docket No. 98-170

**MCI WORLDCOM, INC.
PETITION FOR RECONSIDERATION AND CLARIFICATION**

I. Introduction

MCI WorldCom, Inc. (MCI WorldCom), pursuant to section 1.429 of the Commission's rules, respectfully requests the Commission to reconsider and clarify certain of the rules that it adopted in the Truth-in-Billing Order in the above-captioned proceeding.¹ In the Truth-in-Billing Order, the Commission adopted rules and requirements to ensure that carriers' charges, practices, classifications and regulations for and in connection with interstate services are just and reasonable, pursuant to Section 201(b) of the Communications Act. The Commission also noted that its requirements would help monitor the identity of their service provider, and thereby assist in detecting unauthorized conversions quickly.² These requirements require (1) that consumer

¹ In the Matter of Truth-in-Billing and Billing Format, CC Docket No. 98-170, First Report and Order and Further Notice of Proposed Rulemaking, FCC 99-72, released May 11, 1999 (Truth-in-Billing Order).

² Truth-in-Billing Order at ¶21 and ¶23. 47 U.S.C. §§201(b), 258. Section 258 authorizes the Commission to adopt verification requirements to deter slamming in both interstate and intrastate markets.

telephone bills be clearly organized, clearly identify the service provider, and highlight any new providers; (2) that bills contain full and non-misleading descriptions of charges that appear therein; and (3) that bills contain clear and conspicuous disclosure of any information the consumer may need to make inquiries about, or contest charges on, the bill.³

MCI WorldCom supports these goals. Unlike the Commission, however, MCI WorldCom believes competition, not increased regulation, is the best means of advancing these consumer interests.⁴ For example, the highly competitive environment in which interexchange carriers operate requires carriers to provide clear, truthful billing and customer communications if they are to attract and retain customers.⁵ If the Commission nevertheless believes that consumers require additional protection, then federal guidelines -- that are designed to address a specific problem, that are mindful of carriers' ability to implement such guidelines, and that do not impose costs that outweigh the public benefit -- should be adopted. It should be clear, however, that the guidelines are guidelines, not rules of proscriptive or prescriptive effect.

In the Truth-in-Billing Order, the Commission requires carriers to make clear when

³ Id at ¶5

⁴ As MCI WorldCom demonstrated in its comments filed in the instant proceeding on November 13, 1998, the highly competitive environment in which MCI WorldCom operates requires carriers to provide clear, truthful billing and customer communications if they are to attract and retain customers. The relationship between the carrier and the end user is often evaluated on the carrier's ability to communicate clearly with the customer, through billing, account teams, marketing messages, advertisements, and customer service representatives. In the Matter of Truth-in-Billing and Billing Format, CC Docket No. 98-170, MCI WorldCom, Inc. Comments, filed November 13, 1998.

⁵ See for example, In the Matter of Truth-in-Billing and Billing Format, CC Docket No. 98-170, MCI WorldCom, Inc. Comments, filed November 13, 1998 (MCI WorldCom Comments).

non-payment for service would result in the termination of the consumer's basic local service, where carriers include in a single bill both deniable and nondeniable charges.⁶ MCI WorldCom requests that the Commission reconsider and eliminate this requirement because it does not advance the Commission's stated objective, will impose enormous new costs on the industry, will seriously harm the ability of some carriers to recover all charges due to them, and extends beyond the Commission's jurisdiction. Additionally, MCI WorldCom requests that the Commission clarify that, under its truth-in-billing guidelines, (1) carriers are not liable for certain billing arrangements that are not under their de facto control; (2) carrier billing system development costs stemming from implementation of truth-in-billing guidelines are to be borne by all carriers proportionally; (3) the Commission's guideline requiring clear and conspicuous identification of service providers not appearing on a previous bill does not require dial around, casual, or operator service providers to be identified as a new service provider on the monthly invoice; (4) carriers may provide customers toll-free numbers, or when such means are agreed to by customers, other no-cost means of accessing a carrier's customer service; and (5) carriers are not required to dedicate customer service numbers, web sites, or email addresses for the sole purpose of line item inquiries.

II. The Commission Should Reconsider and Eliminate its Requirement That Carriers Must Identify "Deniable" and "Nondeniable" Charges on Consumer Invoices

Deniable charges are those charges that, if unpaid, could result in the termination of local

⁶ First Report and Order at ¶¶44-46.

exchange or long distance telephone service. Non-deniable charges are those charges for which basic communications services would not be terminated for non-payment. In the Truth-in-Billing Order, the Commission requires carriers to make clear when non-payment for service would result in the termination of the consumer's basic local service, where carriers include in a single bill both deniable and nondeniable charges.⁷ The Commission determined that its authority to mandate this requirement -- as well as the truth-in-billing principles generally, derive from both §201(b) and §258 of the Act.⁸

As the Commission correctly notes, Section 201(b) requires that all carrier charges, practices, classifications, and regulations for and in connection with interstate communications services be just and reasonable, and gives the Commission jurisdiction to enact rules to implement that requirement.⁹ Section 258 of the Act, as the Commission notes, authorizes the Commission to adopt verification requirements to deter unauthorized conversions in both the interstate and intrastate markets.¹⁰ Unauthorized conversions occur when a company changes a subscriber's carrier selection without that subscriber's knowledge or explicit authorization.¹¹ The Commission states in the Truth-in-Billing Order that, with the exception of the guidelines involving standardized labels for charges relating to federal regulatory action, the truth-in-billing

⁷ First Report and Order at ¶¶44-46.

⁸ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (Act).

⁹ See 47 U.S.C §§201(b), 258. Also, see Truth-in-Billing Order at ¶21.

¹⁰ Truth-in-Billing Order at ¶21.

¹¹ Truth-in-Billing Order at n.4.

principles and guidelines adopted in its Truth-in-Billing Order "... are justified as slamming verification requirements pursuant to Section 258, and thus can be applied to both interstate and intrastate services."¹²

The Commission's requirement that carriers make clear when non-payment for service would result in the termination of the consumer's basic local service reaches beyond its jurisdiction. It is clear that the Commission has jurisdiction over carriers' interstate charges, practices, classifications, and regulations under §201(b). The Commission's requirement, however, extends to billing for intrastate services. Similarly, it is clear that the Commission has authority under §258 to take steps needed to reduce and prevent unauthorized conversions in the interstate and intrastate telecommunications markets. However, the Commission has not identified, and we believe cannot identify, any linkage between a customer knowing which charges, if not paid, will result in termination of basic service, and the customer's ability to prevent or detect unauthorized conversions. Identifying which charges would result in termination of basic service if not paid conveys no meaningful information to the customer that would help determine if the carrier providing a service is the carrier which the customer selected, or whether an unauthorized conversion has occurred.¹³ The Commission has failed to demonstrate the nexus between its requirement that carriers make clear when non-payment for

¹²Truth-in-Billing Order at ¶21.

¹³ Moreover, an end user would not lose local service due to failure to pay an unauthorized carrier in the current environment. If there is a dispute on a charge, the LEC will adjust the charge and recourse it back to the IXC. While the IXC could attempt to collect the charge, the IXC has no ability to itself disconnect dial tone for any reason.

service would result in the termination of the consumer's basic local service, and its goal, and Congress' goal, of protecting consumers from unauthorized conversions.¹⁴ As a result, it has stepped beyond its authority in promulgating this particular guideline.

Congress extended the Commission's limited authority beyond state boundaries so that it may reduce and prevent unauthorized conversions. The Commission's deniable/nondeniable principle does not promote, and is unrelated to, the goal of reducing and preventing unauthorized conversions, yet applies to interstate and intrastate services. The Commission should reconsider and eliminate its requirement that carriers must identify "deniable" and "nondeniable" charges on consumer invoices.

Additionally, the Commission should reconsider and eliminate its requirement that carriers identify which charges if not paid will result in termination of basic service because such a requirement will lead to an increase in industry fraud, uncollectables, and rapid change of carriers. The costs resulting from each will have the unfortunate effect of placing upward pressure on rates that must be paid by the very customers that should be receiving the benefits of competition. Also, the deniable/nondeniable identification requirement is not competitively neutral. It disproportionately affects long distance carriers who overwhelmingly rely on incumbent local exchange carrier billing, without giving any practical opportunity for long distance carriers to make alternative billing arrangements. As the Commission well knows, it is a complex and extremely expensive process to "take back" one's long distance billing from local

¹⁴ Nor can the citation contained in its ordering clause to section 4(i) save the Commission's rationale here, since 201(b) and 258 do not permit the Commission to promulgate a "deniability" rule with respect to local service.

exchange carriers.

III. For the Purposes of Truth-In-Billing Compliance, Carriers Should Not Be Liable for Billing Arrangements That Are Not Under Their De Facto Control

In the current environment, MCI WorldCom bills the vast majority of its mass market customers via a single bill sent by the ILECs.¹⁵ The relationship of MCI WorldCom and the ILECs is a contractual one; however, due to lack of competitive billing alternatives, the ILECs can, and do, dictate much of the formatting of customer bills. In fact, the absence of other competitive alternatives, and the inability of large IXC's to present a credible threat of direct remit billing, render ILEC billing and collection contracts more like contracts of adhesion than a negotiated contract one might expect in a commercial environment. MCI WorldCom does have some control in the dial 1 portion of invoices, and paid large amounts of money to the ILECs to develop software to permit it to transmit dial 1 billing information to the ILECs in a manner MCI WorldCom believes to be easily understandable by its customers. However, this "control" is somewhat illusory. The ILECs have total control over the casual billing portion of invoices and maintain control over how the bill as a whole is formatted (for example, controlling page size and type).¹⁶

¹⁵MCI WorldCom Comments at pp16-18. MCI WorldCom uses a variety of billing methods for its remaining customers. MCI WorldCom does not have de facto control over all of these arrangements.

¹⁶ In addition, the time deadlines imposed by ILECs requiring advance approval of invoice messages and bill inserts can result in necessary messaging not appearing on the invoice. Often, last minute information needs to be sent to the customer. While some ILECs do work with IXC's

Given the overwhelming control that ILECs have over billing, the Commission should clarify that the carrier who provides service can define invoice messaging and labeling, and the carrier who is sending a bill on a contractual basis cannot interfere with messaging or labeling that is otherwise lawful. Carriers should not be found liable for certain billing arrangements that are not under their control as long as they have made, and can demonstrate that they have made, a good faith effort to comply.¹⁷ Carriers should not be found liable where the billing entity has seized control of invoice labeling and messaging.

IV. Carriers Should Not Be Liable for Compliance with the Truth-in-billing Requirements in Complex Arms-length Business Transactions Where the Billing Format Is Negotiated

The Commission should also clarify that in complex arms-length business transactions where the customer has specifically requested or agreed to billing formats and labels that are distinct and different from those mandated by the Commission's Truth-in-Billing Order, (e.g., bills created specifically for certain business customers), carriers are not liable for compliance with the promulgated truth-in-billing principles and guidelines. Such a clarification is in the public interest because it would permit carriers to develop invoices and customer

on timing, it is not always the case that IXC's are successful in their ability to place customer communications in invoices. In other cases, ILECs have been known to exert editorial privileges over the content of the messages. Requiring resubmittals of invoice messaging over and over under the premise that it does not meet contractual requirements sometimes means the message is simply not included.

¹⁷ Similarly, the Commission should clarify that carriers are not held to the requirement that customer service personnel be well-trained and of sufficient number to handle call volumes for casual billing, where the carrier must contract with the LEC to perform customer service.

communications that meet the specific demands of certain customers. Furthermore, in such instances, there would be no valid concern that invoices or messages may not be clear and understandable since their design would be at the behest of the customer.

V. Commission Requirements Aimed At Mitigating Unauthorized Conversions Should Be Competitively Neutral, Economically Efficient, and Implementable

In the Truth-in-Billing Order, the Commission adopted the principle that telephone bills must be clearly organized and highlight new service provider information. While the Commission did not mandate how carriers organize their customer invoices, it required that carriers clearly and conspicuously identify on the invoice all service providers billing in the current month that did not bill for services on the previous billing statement.¹⁸ The Commission reasoned that clear identification of new service providers will improve consumers' ability to detect slamming because, currently, telephone bills do not always clearly show when there has been a change in presubscribed carriers.¹⁹

The most efficient way to mitigate unauthorized conversions is a neutral, industry-funded, Third Party Administrator (TPA), as proposed in the Joint Petition, combined with third party verification methods employed by companies such as MCI WorldCom.²⁰ The TPA

¹⁸ Truth-in-Billing at ¶33.

¹⁹ Id.

²⁰ See In the Matter of Implementation of Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, CC Docket No. 94-129, Joint Petition For Waiver, filed By MCI WorldCom, Inc. on behalf of MCI WorldCom, Inc, AT&T Corp., the Competitive

proposed in the Joint Petition, when combined with such third party verification methods, is consistent with Section 258 and offers customers protection from unauthorized carrier changes in a straight forward manner, and for the first time, would give consumers, government agencies, and carriers a single point of contact that will: (1) quickly resolve customer allegations of unauthorized conversions; (2) independently determine a carrier's compliance with the Commission's verification procedures; (3) honor Commission's requirements that customers be compensated for their inconvenience; and (4) administer carrier-to-carrier liability.

If, however, the Commission requires new carrier information to be provided on monthly invoices, the Commission should not allow ILECs to shift their portion of related billing system development costs to interexchange customers through their billing and collection contracts, since ILEC customers, too, will benefit from the added information. All ILECs currently can offer intraLATA toll services and out-of-region interLATA toll services, and all the ILECs except the Regional Bell Operating Companies can offer in-region interLATA toll services. As a result of this requirement, all carriers will have significant billing system development costs; each carrier should pay its own share of compliance with the new guidelines. The Commission should, therefore, clarify that carrier billing system development costs stemming from the Commission's guideline requiring clear and conspicuous identification of service providers not appearing on a previous bill are to be borne by all carriers proportionally.

Telecommunications Association, Sprint Corporation, the Telecommunications Resellers Association, Excel Communications, Frontier Corporation, and Qwest Communication Corporation on March 30, 1999 (Joint Petition).

The Commission should also clarify that its rule requiring clear and conspicuous identification of new providers on a bill does not apply to "dial around," casual billed, or operator services since these providers do not constitute a new provider within the meaning of the rule. First, billing systems do not now exist that could implement this requirement, and such development would not only take time, but would be extremely expensive. Second, while a customer may change his or her preferred carrier for local, interLATA toll, or intraLATA toll during a billing cycle, the selection of a carrier on a call-by-call basis does not commit the customer to a PIC change selection of a calling plan, the risk that the customer inadvertently is billed on the carrier's basic schedule, or a PIC change fee. Moreover, the amount of space providing such information would take on the bill-- even if it could be provided --would substantially increase the expense of providing telecommunications services since most invoices would need to be redesigned. Also, providing such information regarding dial around, casual billed or operator service providers is not necessary to help control unauthorized conversions since (a) use of dial around, casual billed or operator service providers do not change the customer's presubscribed carrier, and (b) the customer authorized the per call dial around service by dialing the additional digits.

Finally, given that information on presubscribed carriers is maintained in the LEC switches, and given that IXC's do not have real-time access to such information, the Commission should clarify that it is a LEC responsibility to provide the information regarding new presubscribed service providers to customers.

VI. Carriers Should Prominently Display on Each Bill Information Sufficient to Permit Customers to Inquire or Dispute Any Charge Contained on a Bill

MCI WorldCom agrees with the Commission that telephone bills should contain clear and conspicuous disclosure of any information that the customer may need to make inquiries about, or contest charges on, the bill. MCI WorldCom also agrees that it is reasonable to expect companies to provide consumers with adequate information for getting in touch with their carrier. Given the growing popularity of the Internet and "on-line" customer services, MCI WorldCom requests that the Commission clarify that these objectives can be accomplished by providing customers with toll-free numbers, or when such means are agreed to by the customer, other no-cost means of accessing a carrier's customer service.²¹

So as not to preclude creative and innovative products from the marketplace, the Commission should amend its rule as follows:

Common carriers should prominently display on each bill information sufficient to permit customers to inquire or dispute any charge contained on a bill. A carrier may list a toll-free number for a billing agent, clearinghouse or other third party provided that such party possesses sufficient information to answer questions concerning the customer's account and is fully authorized to resolve consumer complaints on the carrier's behalf.

Also, the Commission should clarify that toll-free numbers, or other no-cost means of accessing a carrier's customer service, need not be established for the exclusive use of line item related inquiries. Given the Commission's requirement that customer service representatives must have the necessary information and authority to resolve any customer inquiry or dispute related to

²¹ A carrier might, for example, want to offer its customer service via a web site and e-mail. If consumers are interested in such a carrier or such a plan, the Commission's rules should not preclude it, even if the carrier chooses "electronic" interaction as its only method of customer service.

charges on the invoice, no apparent reason exists to require carriers to set up separate toll-free number for the exclusive purpose of handling inquiries related to line items. Under the Commission's truth-in-billing guidelines, whether the customer calls the carrier on a toll-free number dedicated to line items or not, he or she is entitled to speak with a customer service representative who can respond to the customer's inquiry.²² There is no valid reason to dedicate customer service numbers for particular purposes.

MCI WorldCom's proposed clarification and modification should be adopted to ensure that customers can easily contact their carriers, and to ensure that innovation in the telecommunications market place is not stifled.

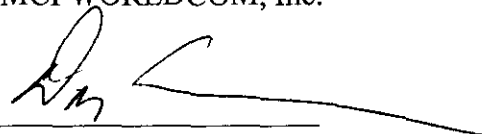
VII. Conclusion

For the foregoing reasons, the Commission should reconsider and eliminate its requirement that carriers must clearly and conspicuously identify when non-payment for service would result in the termination of the consumer's basic local service, where carriers include in a single bill both deniable and nondeniable charges. Additionally, the Commission should clarify that, under its Truth-in-Billing guidelines, (1) carriers are not liable for certain billing arrangements that are not under their control; (2) carrier billing system development costs stemming from implementation of the Commission's guideline requiring clear and conspicuous identification of service providers not appearing on a previous bill are to be borne by all carriers proportionally; (3) the Commission's guideline requiring clear and conspicuous identification of

²² Truth-in-Billing Order at ¶¶95-67.

service providers not appearing on a previous bill does not require dial around, casual billed or operator service providers to be identified as a new service provider on the monthly invoice; (4) carriers may provide customers toll-free numbers, or, when such means are agreed to by the customer, other no-cost means of accessing a carrier's customer service; and (5) carriers are not required to dedicate customer service numbers, web sites, or email addresses for sole purpose of line item inquiries.

Respectfully submitted,
MCI WORLDCOM, Inc.

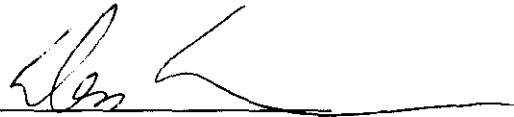
A handwritten signature in black ink, appearing to be 'Don Sussman', written over a horizontal line.

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July 26, 1999

STATEMENT OF VERIFICATION

I have read the foregoing and, to the best of my knowledge, information, and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on July 26, 1999

A handwritten signature in black ink, appearing to read 'Don Sussman', is written over a horizontal line.

Don Sussman
1801 Pennsylvania Avenue, NW
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CERTIFICATE OF SERVICE

I, Vivian Lee do hereby certify that copies of the foregoing Petition for Reconsideration and Clarification In the Matter of Truth-in-Billing and Billing Format of MCI WorldCom, Inc. were sent via first class mail, postage paid, to the following on this 26th day of July 1999.

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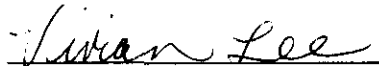
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